

## Remarks

Claims 3-18 are now pending in this application. Applicants have amended claims 3, 4, 6-11, 14, and 15 and added new claims 16-18 to clarify the present invention. Applicants respectfully request favorable reconsideration of this application.

The Examiner rejected claimed 1-4 and 6-15 under 35 U.S.C. § 102(e) as being anticipated by U.S. patent 7,027,193 to Spears et al. The Examiner rejected claim 5 under 35 U.S.C. § 103(a) as being unpatentable over Spears et al. in view of U.S. patent 6,005,617 to Shimamoto et al.

Spears et al. does not disclose the present invention as recited in newly presented independent claim 16 since, among other things, Spears et al. does not disclose a sensor for imaging characteristics of an object where the sensor includes a first area of pixels for imaging three-dimensional characteristics of the object and a second area of pixels for imaging two-dimensional characteristics of the object. Rather, Spears et al. discloses a device that measures color and luminescence. The reference to three-dimensional color space and two-dimensional luminescence space are not referring to two and three-dimensional characteristics of an object. Rather, Spears et al. is referring to a system for characterizing color. For example, characteristics of colors, such as hue, saturation (chroma), and value (intensity or luminance) are determined and may be assigned to various axes to graphically represent the characteristics of the colors. The characteristics of the color are called the "color space". The color space has nothing to do with the three-dimensional shape of an object. A description of "color space" may be

found, for example, in U.S. patent 6,236,406.

Unlike Spears et al., the present invention includes a sensor that measures actual physical two and three-dimensional characteristics of objects. This is described in the specification and recited in the claims. It follows that Spears et al. does not disclose a system as recited in claim 9, which includes at least one light source that emits light towards an object to be measured and a sensor for imaging characteristics of an object where the sensor includes a first area of pixels for imaging three-dimensional characteristics of the object and a second area of pixels for imaging two-dimensional characteristics of the object.

In view of the above, Spears et al. does not disclose all elements of the present invention as recited in claims 16 and 9 and claims 3, 4, 6-8, 10-15, 17 and 18, which depend therefrom. Since Spears et al. does not disclose all elements of the present invention as recited in claims 2, 4, and 6-18, the present invention, as recited in claims 2, 4, and 6-18, is not properly rejected under 35 U.S.C. § 102(b). For an anticipation rejection under 35 U.S.C. § 102(b) no difference may exist between the claimed invention and the reference disclosure. *See Scripps Clinic and Research Foundation v. Genentech, Inc.*, 18 U.S.P.Q. 841 (C.A.F.C. 1984).

Along these lines, anticipation requires the disclosure, in a cited reference, of each and every recitation, as set forth in the claims. *See Hodosh v. Block Drug Co.*, 229 U.S.P.Q. 182 (Fed. Cir. 1986); *Titanium Metals Corp. v. Banner*, 227 U.S.P.Q. 773 (Fed. Cir. 1985); *Orthokinetics, Inc. v. Safety Travel Chairs, Inc.*, 1 U.S.P.Q.2d 1081 (Fed. Cir. 1986); and *Akzo N.V. v. U.S. International Trade Commissioner*, 1 U.S.P.Q.2d 1081 (Fed. Cir. 1986).

The combination of Spears et al. and Shimamoto et al. does not suggest the present invention as recited in claim 5, which ultimately depends from claim 16, since, among other things, Spears et al. does not suggest a sensor for imaging characteristics of an object where the sensor includes a first area of pixels for imaging three-dimensional characteristics of the object and a second area of pixels for imaging two-dimensional characteristics of the object. The Examiner cites Shimamoto et al. as suggesting time delay integration on a second area. Providing the device suggested by Spears et al. with the time delay integration suggested by Shimamoto et al. does not suggest the present invention since the combination still would not suggest a sensor for imaging characteristics of an object where the sensor includes a first area of pixels for imaging three-dimensional characteristics of the object and a second area of pixels for imaging two-dimensional characteristics of the object.

In view of the above, the references relied upon in the office action, whether considered alone or in combination, do not disclose or suggest patentable features of the present invention. Therefore, the references relied upon in the office action, whether considered alone or in combination, do not anticipate the present invention or make the present invention obvious. Accordingly, Applicants respectfully request withdrawal of the rejection based upon the cited references.

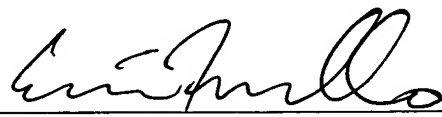
In conclusion, Applicants respectfully request favorable reconsideration of this case and early issuance of the Notice of Allowance.

If an interview would advance the prosecution of this application, Applicants respectfully urge the Examiner to contact the undersigned at the telephone number listed below.

The undersigned authorizes the Commissioner to charge fee insufficiency and credit overpayment associated with this communication to Deposit Account No. 22-0261.

Respectfully submitted,

Date: 1/17/08

  
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